




## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 17, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0212

### Allegations of Misconduct & Director's Findings

#### Named Employee #1

Allegation(s):		Director's Findings
# 1	13.030 – Emergency Vehicle Operations, 13.030-POL-5. Officers Are Responsible for the Safe Operation of Their Police Vehicle	Not Sustained - Unfounded
# 2	13.030 – Emergency Vehicle Operations, 13.030-POL-4. Officers Use Emergency Lights for Emergency Response	Not Sustained - Unfounded

#### Named Employee #2

Allegation(s):		Director's Findings
# 1	13.030 – Emergency Vehicle Operations, 13.030-POL-5. Officers Are Responsible for the Safe Operation of Their Police Vehicle	Sustained
# 2	13.030 – Emergency Vehicle Operations, 13.030-POL-4. Officers Use Emergency Lights for Emergency Response	Sustained

#### Imposed Discipline

Written Reprimand
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***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### EXECUTIVE SUMMARY:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) followed a reportedly stolen vehicle. It was alleged that the named employees neither safely operated their police vehicle nor activated their emergency lights, while traveling at high speeds on city streets and running multiple red lights.

### ADMINISTRATIVE NOTE:

On September 19, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.



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**SUMMARY OF INVESTIGATION:**

OPA received a complaint and opened an investigation. During its investigation, OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call report, dispatch audio, and in-car video (ICV). OPA also interviewed NE#1 and NE#2.

**A. OPA Complaint**

On May 15, 2023, the captain of the Force Investigation Team emailed OPA requesting OPA's review of NE#1 and NE#2 engaging in "a short pursuit with another vehicle."

**B. Computer-Aided Dispatch (CAD) Call Report and Dispatch Audio**

On March 28, 2023, at 5:20 AM, CAD noted that NE#1 and NE#2 ran a license plate. CAD noted that NE#2<sup>1</sup> went northbound on Renton Avenue South from South Kenyon Street, then went on Martin Luther King Jr. (MLK) Way. At 5:21 AM, CAD noted, "UP TO GRAHAM HAVE NOT LIT UP YET." CAD then noted, "STARTING TO TAKE OFF COMING UP TO ORCAS." At 5:22 AM, CAD noted, "[LOST SIGHT] MLK/COLUMBIA [UNKNOWN] DIRECTION."

The dispatch audio was consistent with the CAD call report. Additionally, after NE#1 had dispatch run the license plate, dispatch responded, "Unverified Seattle stolen [vehicle]."

**C. In-Car Video (ICV)**

ICV from NE#1's and NE#2's vehicle recorded their police vehicle traveling at 42 MPH behind a vehicle (Vehicle #1) going westbound on South Kenyon Street. Vehicle #1 approached Renton Avenue South and turned right at a red light. The police vehicle followed and turned right at the red light without its emergency equipment activated. Vehicle #1, going northbound on Renton Avenue South, pulled away from the police vehicle. ICV captured the police vehicle traveling between 51 to 64 MPH to close the distance. The police vehicle partially went onto the oncoming traffic lane. Vehicle #1 approached MLK Way at a traffic intersection, braked, and turned right at a red stoplight. The police vehicle went onto the oncoming traffic lane and turned right at the red stoplight without its emergency equipment activated.

Vehicle #1, going northbound on MLK Way, passed a red stoplight that was equipped with an automated traffic safety camera, which flashed twice, and pulled away from the police vehicle. ICV captured the police vehicle traveling between 28 to 46 MPH while following Vehicle #1. The police vehicle stopped at the intersection, then passed the red stoplight without its emergency equipment activated. The automated traffic safety camera flashed twice. ICV captured the police vehicle traveling at 77 MPH—the maximum speed recorded—but Vehicle #1 pulled away. The police vehicle passed multiple green light intersections, but slowed down as more vehicular traffic was present. The ICV deactivated as the police car slowed down.

**D. OPA Interviews**

**1. Named Employee #1 (NE#1)**

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<sup>1</sup> NE#1 and NE#2 were in the same vehicle. CAD only noted NE#2 here because he was the driver.



OPA interviewed NE#1. NE#1 said he was the passenger in a two-officer police vehicle with NE#2, who was the driver. NE#1 said he, as the passenger, would control the radio and computer. NE#1 said they saw two suspicious people who appeared to be car prowling. NE#1 said those two people quickly got into Vehicle #1 and drove away. NE#1 said he ran Vehicle #1's license plate in the computer, which came back stolen. NE#1 said they maintained a visual on Vehicle #1, alerted dispatch, and awaited additional officers. NE#1 said they did not attempt to stop Vehicle #1 because they were trained to use a high-risk vehicle stop, which required multiple officers and police vehicles. NE#1 said they saw Vehicle #1 pull away at a high speed on MLK Way, so they stopped following it because they did not want the driver of Vehicle #1 to drive recklessly. NE#1 also said officers do not follow stolen vehicles alone.

NE#1 said officers clear an intersection by slowing down when approaching, looking to ensure the road is clear, and activating the "first click" on the overhead emergency lights to alert nearby drivers that officers are passing the intersection. NE#1 said the "first click" activates the rear and side-facing lights but not ICV. NE#1 said the "second click" and "third click" activate all overhead emergency lights and ICV. NE#1 said they only activated the "first click" because they did not want to signal Vehicle #1 to pull over due to a lack of officers. NE#1 believed they complied with policy because they activated the "first click" when clearing intersections. NE#1 noted that he did not drive.

## **2. Named Employee #2 (NE#2)**

OPA interviewed NE#2. NE#2's statements were consistent with NE#1's statements summarized above. NE#2 also provided the following information. NE#2 said he was the driver. NE#2 said the early morning hours were dark, and there were very few cars on the road. NE#2 said the speed limit in the area was 25 MPH but could not recall his speed. NE#2 said he initially drove slowly but sped up once Vehicle #1 was on MLK Way. NE#2 said he did not conduct a traffic stop because Vehicle #1 pulled away from him and he did not have enough officers to conduct a high-risk vehicle stop. NE#2 said Vehicle #1 was gone by the time its license plate came back as stolen, so he put out Vehicle #1 over radio.

NE#2 described how he followed Vehicle #1. NE#2 said he activated his rear emergency lights when he passed several red stoplights. NE#2's statements on clearing an intersection, the different "clicks" activating emergency lights, and why he only activated the "first click" were consistent with NE#1's statements. NE#2 said he sped because Vehicle #1 sped, he wanted to maintain a visual on Vehicle #1, and he wanted correct information from the license plate, which was difficult to read because it hung from one screw. NE#2 said they did as much as they could during that short time but following Vehicle #1 became infeasible once Vehicle #1 sped away.

## **ANALYSIS AND CONCLUSIONS:**

### **Named Employee #1 – Allegation #1**

#### ***13.030 – Emergency Vehicle Operations, 13.030-POL-5. Officers Are Responsible for the Safe Operation of Their Police Vehicle***

It was alleged that NE#1 did not safely operate his police vehicle.

Here, NE#1 was the passenger in a two-officer police vehicle. Both named employees confirmed that NE#2 drove when they followed Vehicle #1, while NE#1 managed the radio and ran Vehicle #1's license plate. Because NE#1 did not drive, he did not violate SPD Policy 13.030-POL-5.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.



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Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #1 – Allegation #2**

***13.030 – Emergency Vehicle Operations, 13.030-POL-4. Officers Use Emergency Lights for Emergency Response***

It was alleged that NE#1 did not use emergency lights for an emergency response.

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #2 – Allegation #1**

***13.030 – Emergency Vehicle Operations, 13.030-POL-5. Officers Are Responsible for the Safe Operation of Their Police Vehicle***

It was alleged that NE#2 did not safely operate his police vehicle.

Policy requires SPD officers to be responsible for the safe operation of their police vehicles. SPD Policy 13.030-POL-5. Policy states, “Officers are not relieved of the obligation to drive with due regard for the safety of all persons.” *Id.* Policy further states, “Officers will drive no faster than reasonably necessary to safely arrive at the scene.” *Id.*

Here, objective ICV evidence captured NE#2, without activating any emergency equipment, partially driving onto the oncoming traffic lane, passing three solid red lights, and speeding. Additionally, NE#2 drove onto an oncoming traffic lane to turn right onto MLK Way. NE#2’s ICV captured maximum speeds of 42 MPH on South Kenyon Street, 64 MPH on Renton Avenue South, and 77 MPH on MLK Way. The posted speed limit on MLK Way was 25 MPH. NE#2 acknowledged that he sped up to maintain a visual on Vehicle #1 and to obtain correct information from Vehicle #1’s license plate. NE#2 said did not want to stop Vehicle #1 because he wanted to perform a high-risk vehicle stop with multiple officers. NE#2 did not activate any emergency equipment when he, at one point, drove 77 MPH on MLK Way. By that time, Vehicle #1 was nearly out of sight and NE#2 already had Vehicle #1’s license plate information. Policy required NE#2 to drive “no faster than reasonably necessary.” However, NE#2 drove more than three times the speed limit on MLK Way. Although there were a few cars on the road, visibility was reduced because it was dark outside. Based on these facts, NE#2 did not safely operate his police vehicle.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #2 – Allegation #2**

***13.030 – Emergency Vehicle Operations, 13.030-POL-4. Officers Use Emergency Lights for Emergency Response***

It was alleged that NE#2 did not use emergency lights for an emergency response.



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Policy requires SPD officers to use their emergency lights for an emergency response. SPD Policy 13.030-POL-4. An “emergency response” is when an officer operates an authorized police vehicle in a manner that is substantially outside of a normal traffic pattern. SPD Policy 13.030-POL-1. Policy states, “Officers will use audible signals when necessary to warn others of the emergency nature of the situation (See RCW 46.61.035).” SPD Policy 13.030-POL-4.

Here, NE#2 did not activate his emergency lights but, instead, used the “first click” to activate the rear and side-facing lights when he cleared intersections. OPA could not verify on ICV whether NE#2 activated the “first click” as he cleared intersections. However, even if OPA assumed that NE#2 activated the “first click,” NE#2’s driving substantially deviated from the normal traffic pattern, meeting the definition of an emergency response. NE#2 drove, at one point, 42 MPH westbound on South Kenyon Street, which appeared to be a residential street. NE#2 drove, at one point, 64 MPH on Renton Avenue South. On Renton Avenue South, NE#2 partially drove onto the oncoming traffic lane at speeds between 51 to 55 MPH. NE#2 drove, at one point, 77 MPH on MLK Way. ICV evidence indicates NE#2 failed to activate his emergency lights when he operated his police vehicle in the manner described above.

OPA recognizes that NE#2 followed what was most likely a stolen vehicle and wanted to maintain a visual on it. OPA also recognizes that NE#2 did not want to fully activate his emergency lights because he wanted additional officers to respond to effect a high-risk vehicle stop. However, if NE#2 wanted to continue following Vehicle #1 and, thereby, disregard traffic laws, he was required to fully activate his emergency lights and sirens. See SPD Policy 13.031-POL-4 (requiring officers in pursuits to, among other things, activate emergency lights and sirens continuously to warn others of the emergency nature of the situation). Short of a pursuit—which would not have been permitted here—or activating emergency lights, NE#2 was not allowed to drive substantially outside a normal traffic pattern.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**